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OFFICE OF PETITIONS

In re Application of :
Paulshus et al. :
Application No. 09/871,608 : ON PETITION
Filed: 31 May, 2001 :
Attorney Docket No. 7822-82871 :

This is a decision on the petition, filed on 9 June, 2003, under 37 CFR 1.137(a) which is first treated as a petition to withdraw the holding of abandonment for the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

The application was held abandoned on 3 November, 2002, for failure to file a timely response to the non-final Office action mailed on 2 August, 2002, which set a three (3) month shortened statutory period for reply. Extensions of time were available under 37 CFR 1.136(a). Notice of Abandonment was mailed on 7 April, 2003.

Petitioner asserts that a proper reply, including an amendment and a request and payment for a three (3) month extension of time, was filed on 21 January, 2003. Petitioners note that the Extension of Time Request inadvertently requested and included a check in the amount due for a two (2) month extension of time rather than a three (3) month extension of time, as was necessary, but also included a general authorization stating "[i]f there is any error in the amount owed, authorization is hereby given to charge such amount to our Deposit Account No. 23-0920."

As petitioners' extension of time request, filed with the amendment on 21 January, 2003, did authorize the charging the

proper fee amount for a three (3) month time extension, it is obvious that a timely reply and proper response was in fact filed on 21 January, 2003.

Accordingly, as the abandonment was due to Office error, the holding of abandonment is withdrawn, and the Notice of Abandonment is vacated. In view thereof, the petition under 37 CFR 1.137(a) is moot. The petition fee \$110.00 is unnecessary. However, petitioners are responsible for the difference between a two (2) month extension of time and a three (3) month extension of time, a total of \$520.00. Therefore, counsel's deposit account, No. 23-0920, will be charged the balance due of \$410.00.

This application is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.



Douglas I. Wood
Petitions Attorney
Office of Petitions